



Sponsored Facilities Owing Outstanding Debt, CACFP #37 (14-37)

LEGAL AUTHORITY

O.C.G.A. § 20-1A-4(3); 7 C.F.R. § 226.6 (c); 7 C.F.R. § 226.14; 7 C.F.R. § 226.15 (c); 7 C.F.R. § 226.16 (c)

I. PURPOSE

The purpose of this policy is to establish guidelines for sponsoring organizations with facilities that owe outstanding debts to the Child and Adult Care Food Program (CACFP).

II. APPLIES TO

This policy applies to all Sponsors of Day Care Homes and Sponsors of Unaffiliated Centers.

III. DEFINITIONS

"Days" means calendar days unless otherwise specified.

"Facility" means a sponsored center or a family day care home.

"Reclaimed meals" means meals that were determined to be invalid meals where the institution received reimbursement and DECAL issued a finding and disallowed meals.

"Recouped reclaims" means an attempt to recover previously disbursed funds from the sponsored facility's first available claim for reimbursement because the meals were subsequently determined invalid, non-creditable or disallowed

"Sponsoring organization" means a public or nonprofit private organization that is entirely responsible for the administration of the food program in:

- a. One or more day care homes;

- b. A child care center, emergency shelter, at-risk after school care center, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization;
- c. Two or more child care centers, emergency shelters, at-risk after school care centers, outside-school-hours care center, or adult day care centers; or
- d. Any combination of child care centers, emergency shelters, at-risk after school care centers, outside-school-hours care centers, adult day care centers, and day care homes. The term "sponsoring organization" also includes an organization that is entirely responsible for administration of the Program in any combination of two or more child care centers, at-risk afterschool care centers, adult day care centers or outside-school-hours care centers, which meet the definition of For-profit center and are part of the same legal entity as the sponsoring organization.

"Unallowable costs" means costs that were charged to the Program in which program funds were used by the facility that were determined to be unallowable.

IV. POLICY

In accordance with 7 CFR §226.16(c), "Each sponsoring organization shall accept final administrative and financial responsibility for food service operations in all child care and adult day care facilities under its jurisdiction." With regard to overpayment of Child and Adult Care Food Program (CACFP) funds due to disallowed meals or disallowed costs, sponsors are responsible for taking the necessary measures to ensure funds are returned to either Bright from the Start: Georgia Department of Early Care and Learning (DECAL), and/or the facilities' CACFP food service program. Sponsored facilities may be required to repay funds as a result of a claim review, monitoring review, compliance review, complaint investigation, financial review and/or any other action that results in a finding of over-claimed meals, claiming ineligible meals and/or overpayment of funds. In most cases, the sponsor will utilize the following options to recoup funds depending on the type of disallowance:

- If the review resulted in disallowed/reclaimed meals:
 - The sponsor will adjust the facility's claim for reimbursement, if the disallowed meals have yet to be claimed; or
 - The sponsor will recoup (deduct) the reclaimed meals from future Program payments if the facility has already received reimbursement for the disallowed meals, via a revision to the claim for reimbursement in ATLAS.
- If the review resulted in unallowable costs, the sponsor would require a facility to repay the facility's CACFP food service account (except if the facility has been terminated). The facility must use non-Program funds to repay any debt owed. Additionally, excess Program funds cannot be used to repay any unallowable costs. The facility cannot use the repayment on a later date, unless it is an allowable, approved, and documented cost for the Program.

If a facility has been terminated, the repayment of funds resulting from unallowable costs must be paid directly to the sponsor. The sponsor must then return the repayment of unallowable costs to DECAL.

This process does not apply to providers of day care homes since food service accounts are not maintained at the provider level. The only instance where day care homes would be required to repay funds to the sponsor is when the provider is facing proposed termination as a result of being declared seriously deficient for submission of false claims.

Whether due to the food service account or to the sponsor, the sponsoring organization must initiate the following process in order to collect the debt.

1. The sponsoring organization must issue to the sponsored facility a written demand for payment via both certified mail (with return receipt) and regular mail within 30 days. The notice must include notification of:
 - a. The amount due and reason (e.g. disallowed meals, disallowed costs, etc.);
 - b. The requirement to apply payment to the center's current food service account using non-CACFP funds (for disallowed program expenses); or submit payment to the sponsor for (if the institution has been terminated or is no longer operating a child nutrition program);
 - c. The payment due date (e.g., the date corrective action is due, but not to exceed 30 days); and
 - d. The amount of interest accrued every 30 days on all outstanding balances not paid from the date of the initial demand for payment (Please Note: interest is not applied to balances paid to the food service account unless the facility has been terminated). To determine the applicable interest rate, please refer to the Treasury Current Value of Funds Rate on the web at: http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm.
2. The sponsored facility may elect to pay the entire debt in one lump sum payment, or request a payment arrangement with the sponsoring organization. If a payment arrangement is requested, the sponsoring organization must ensure payment in full is made within 180 days. **Note:** Sponsors must have a way of tracking payment plan requests, the sponsor's response to the request, including the final payment plan terms and monthly installment amounts, and must make the info available for review immediately upon request.
3. If, after 30 days of the initial written demand for payment, the facility fails (to remit full payment or fails to agree to a satisfactory repayment schedule, a second written demand for the return of payment is sent by certified mail, with return receipt requested;
4. If, after 60 days of the initial written demand for payment, the facility fails to remit full payment or fails to adhere to a repayment schedule, and the facility is active in the CACFP, the sponsoring organization shall declare the facility Seriously Deficient in accordance with [DECAL Policy No. CACFP/01-16](#) for Sponsors of Day Care Homes and [DECAL Policy No. CACFP/04-31](#) for Sponsors of Unaffiliated Centers. Facilities and their responsible principals/individuals that fail to repay a debt in full and/or fail to adhere to approved payment plan arrangements have failed to meet their financial responsibilities required by federal regulations. Therefore, the facility must be declared Seriously Deficient due to: (1) failure to perform any of the financial and administrative responsibilities required by 7 C.F.R. § 226 for unaffiliated sponsored centers; or (2) submission of false claims for reimbursement for facilities and day care home providers. The sponsoring organization shall require corrective action from the facility that includes repayment of the outstanding debt, the names of the responsible principals and

responsible individuals and their dates of birth. Facilities terminated or disqualified due to outstanding debts not settled must be forwarded to DECAL for placement on the National Disqualified List (NDL) for day care homes and the Georgia Disqualified List (GDL) for unaffiliated childcare centers.

5. When applicable, payments received by the sponsoring organization must then be promptly forwarded to DECAL within five days upon receipt. Additionally, sponsoring organizations must notify DECAL within five (5) days of payment in full to the facility's CACFP food service account and provide documentation verifying all deposits.

Even when the steps listed above are completed as prescribed and the sponsored facility fails to pay the outstanding debt, the sponsoring organization must immediately notify DECAL in writing that all collection efforts have been exhausted. The written notification must include: (a) copies of all collection notices; (b) proof of certified mail and/or returned mail; and (c) where applicable, verification that there are no valid addresses/business names operating in the name of the center contact. DECAL will make a final determination on whether enough measures have been exhausted to consider the case closed.

V. PROCEDURES

The sponsoring organization shall notify sponsored facilities in writing of any claim adjustments and/or outstanding debts owed resulting from overpayment of funds due to disallowed meals or disallowed costs. The sponsor must initiate the collections process for payments due to the sponsoring organization or to the facility's food service account. The sponsor must make at least two written attempts to collect funds. As a reminder, sponsors are required to assess interest every thirty days on the amount owed beginning with the initial demand for payment. Interest is not applied to funds due back to the facility's food service account unless the facility has been terminated.

Payments due to the sponsor must be submitted by certified check and/or money order. Payments received by the sponsoring organization from terminated or inactive facilities must be promptly forwarded to DECAL within five (5) days upon receipt.

A facility's responsible principal/individual's failure to repay debts in full and/or in accordance with payment arrangements will result in the facility being declared Seriously Deficient and being required to repay the outstanding debt as part of their corrective action. As standard practice, sponsoring organizations are required to copy DECAL on all seriously deficient correspondence (e.g., seriously deficient notice, seriously deficient follow-up notices, notice of temporary deferment, notice of intent to terminate, notice of termination and collection notices) issued to the facility. Facilities and their responsible principals/individuals terminated/disqualified due to failure to satisfy outstanding debts will be placed on the National Disqualified List (NDL). The sponsor must immediately notify DECAL when a sponsored facility fails to pay an outstanding debt and all collection efforts have been exhausted.

This policy also applies to facilities that no longer participate in the CACFP even if those facilities voluntarily terminate their participation in the CACFP and/or they have been terminated for cause.

VI. COMMENTS

Any questions concerning this policy should be directed to the Policy Administrator at (404) 651-8193.